

DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2008

TUESDAY, MARCH 13, 2007

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10 a.m., in room SD-124, Dirksen Senate Office Building, Hon. Dianne Feinstein (chairman) presiding.

Present: Senators Feinstein, Dorgan, Reed, Nelson, Allard, Craig, Domenici, and Alexander.

ENVIRONMENTAL PROTECTION AGENCY

STATEMENT OF STEPHEN L. JOHNSON, ADMINISTRATOR

ACCOMPANIED BY:

MARCUS PEACOCK, DEPUTY ADMINISTRATOR

BILL WEHRUM, ACTING ASSISTANT ADMINISTRATOR, OFFICE OF AIR AND RADIATION

OPENING STATEMENT OF SENATOR DIANNE FEINSTEIN

Senator FEINSTEIN. Let me begin by welcoming everyone here this morning, and thank you for attending this hearing on the Environmental Protection Agency's fiscal year 2008 budget request.

We have Steve Johnson, the EPA Administrator, as our principal witness. So, we look forward to the testimony.

I'd also like to thank Senator Craig, our ranking member, and other members who, hopefully, will join us this morning.

I think all of us should be extremely concerned about the cuts in EPA's budget for fiscal year 2008. The administration's request provides \$7.2 billion for the EPA. That's \$508 million less than 2007. That's a 6.6 percent cut. So, this, then, is the smallest EPA budget in more than a decade, and more than \$1.1 billion less than the agency's budget in 2004.

Now, we all know we have to make tough fiscal choices, but—and we need to reduce the deficit, but I don't believe that cutting funding for clean water or clean air is the answer. In particular, I can't begin to understand why the administration would cut \$400 million out of the Clean Water State Revolving Fund. That's a 37 percent cut. Congress funded this Fund at nearly \$1.1 billion last year, because we know that our communities depend on this funding to meet their clean water needs. EPA's own GAP analysis tells us that our Nation needs hundreds of billions of dollars for clean

water infrastructure just to keep pace with our aging water systems.

I mean, I remember the day when no one used bottled water anywhere. We all drank water straight from the tap. That just simply is not true today. Water is not nearly as clean as it used to be.

In my State, the San Joaquin Valley has some of the worst air quality in the Nation. Its geography serves as a bowl that collects air pollutants from cars, trucks, and farm equipment, and it makes the challenges of meeting the Federal air-quality deadlines for ozone and particulate matter virtually impossible. As a matter of fact, it's one of the two nonattainment areas in the State.

The South Coast air district is also fighting severe pollution from ozone and particulate matter. To meet air-quality standards, they'll have to address pollution from a whole host of sources, including heavy trucks, oceangoing ships, and locomotives that move goods to the port. Yet, the air management district tells me that the EPA's recent locomotive and maritime diesel rule is insufficient to allow Southern California to meet its clean air deadlines. These districts need more Federal assistance to clean up their air, not less. In particular, they need the Federal Government to be a better partner on clean diesel programs.

While EPA is moving forward with regulations to reduce further diesel emissions, we have to deal with the 11 million diesel engines that are polluting our air today. So, this is a challenge that could cost billions of dollars.

Now, I'm very pleased that the administration's budget does contain \$35 million to fund clean diesel grants. But, Mr. Administrator, we both know that \$35 million is just not enough to get the job done. It's far less than the \$200 million that Congress authorized for these cleanups, and it's even less than the President proposed last year. My own State is already spending \$100 million each year for diesel emission reduction grants. It's not fair for the States to have to pick up the tab on this, so I hope the Federal Government can step up to the plate and provide more funding.

So, Mr. Johnson, bottom line, I hope you will commit to working with us to make that happen, and I look forward to your testimony.

I'll now call on the ranking member, distinguished Senator, Senator Craig.

STATEMENT OF SENATOR LARRY CRAIG

Senator CRAIG. Well, Madam Chairman, thank you very much.

I must say, at the beginning of my comments, they're going to sound a great deal like the chairman's, Steve. But, welcome before the committee. Marcus, it's great to have you back before the committee to look at your 2008 budget.

EPA has one of the most important and difficult missions of all of our Federal agencies. The agency's jurisdiction ranges from responsibility to cleanup—in the cleanup of Superfund sites such as the Coeur d'Alene site in my home State of Idaho, to funding clean water and drinking water infrastructure programs. If you come to my State, I think bottled water is a fad, Madam Chairman, not a necessity.

In Idaho?

Senator FEINSTEIN. It's not a necessity?

Senator CRAIG. It's a fad.

It's not a necessity.

But certainly there is infrastructure problem of severity and enforcement of the long list of environmental laws that are out there, is a phenomenal obligation to some of our jurisdictions.

The administration has requested \$7.2 billion in the total budget authority for 2008. This is \$500 million below the enacted level. While I am a supporter of the agency and the administration's efforts to curb spending, I think my priorities are not unlike the Senator from California's priorities, and the chairman of this committee. A reduction in EPA's budget is in the form of \$396 million cut to Clean Water State Revolving Funds, at a time when they are desperately needed because of the new requirements in drinking-water standards, is tremendously important and enormously impossible, I guess is a great way to say it, in some of these small communities where the technology is simply not allowing them to comply because of the costs involved for the number of patrons that are recipients of the water delivered. So, that's a tremendously important issue. The State revolving funds work, they work very well. They are the kind of assistance we need.

Now, on a positive note, I am pleased that both the Asian-Pacific Partnership, \$5 million, and Methane to Markets, \$4.4 million, received funding in the budget request. Let me look at my home State a little bit. Coeur d'Alene is a beautiful city in the north end of my home State, adjacent to a Superfund site. I'm way too familiar with the difficulties surrounding cleanup processes with Superfund sites. They still are more valuable to litigate, it seems, than to partnership on the cleanups that are necessary. I appreciate the challenges the agency's facing with cleaning up 1,245 active Superfund sites on the national priority list. However, I am most concerned that EPA is pushing the Superfund program to not only complete construction on sites in a timely manner, but also to turn these areas into healthy and safe conditions.

As we emerge out of our difficulties in north Idaho, it is amazing the economic renaissance that can occur. But we spent 20 years fighting and spending lots of money to get there, and that does not seem like a very productive way to handle resources.

I would like to look past some of the science of drinking water to the realities of our rural communities in Idaho, as I mentioned, suffered from arsenic relations that are simply too big to deal with. Senator Domenici has just arrived. He and I have partnered on this issue, because we have communities that are in unique geologic regions of the country, where the reality of arsenic, with the standards currently set, are simply unattainable in a cost-effective way, compared with large municipalities.

So, those are some of our struggles, Administrator Johnson. I think you understand them well. We've had not only productive dialogue, but cooperation, as we've worked on these issues in the past. We'll continue to do so. But to start with a budget that is below last year is, in itself, a phenomenal challenge.

I would hope this isn't just the gamesmanship that oftentimes goes on when the administrations, Democrat or Republican, know that there are certain congressional priorities that they don't necessarily hold. So, if you get your funding, and your budget looks

good, then Congress will come along and stick some of the money in it that they want, and, in the end, maybe both win, but the budget loses. That's a reality that we all struggle with.

Madam Chairman, thank you very much.

Senator FEINSTEIN. Thank you, Senator Craig.

Does any other member have a statement they might like to make?

Senator, do you?

Senator DORGAN. Madam Chairman, just 1 minute, if I might, and——

Senator FEINSTEIN. Please.

Senator DORGAN [continuing]. No more than 1 minute.

STATEMENT OF SENATOR BYRON L. DORGAN

Senator DORGAN. Mr. Johnson, thank you very much.

My colleague from Idaho talked about spending less money than the previous year. That's been the case repeatedly in recent years on this subcommittee, despite the fact there are substantial needs. But, Administrator Johnson, I talked to you about the Center for Air Toxic Metals, which is a 12-year cornerstone program on this issue of research on technologies to deal with the air toxic metal issue. I talked to you about the fact that Congress has earmarked that for all of these years, because it's never put in the budget, I guess because you expect us to put it in. But I want to continue to work with you to make sure that, in that critical area dealing with the environment, that we don't have, in the intervening period, before Congress once again indicates its importance to that issue, that there not be layoffs and so on in that program before October 1st, when Congress almost certainly will fund it again.

So, I'm going to provide you some information again today relevant to our phone call, but thank you for your leadership. I look forward to working with you.

Mr. JOHNSON. Thank you.

Senator FEINSTEIN. Thank you.

Going—I beg your pardon. I said I was going to use the early-bird rule, and I didn't. I think you were in next, Mr.—Senator Allard. If you——

Senator ALLARD. Madam Chairman, it's not a problem. Thank you.

STATEMENT OF SENATOR WAYNE ALLARD

Senator ALLARD. I want to congratulate you for holding the hearing. I have a full statement I'd like to make a part of the record.

But I would just, first of all, like to congratulate the Environmental Protection Agency for their new building in Denver, which I understand is an energy-efficient building and——

Mr. JOHNSON. Yes.

Senator ALLARD [continuing]. Likely to get what they call the Silver LEEDs rating, which is very good. I want to congratulate you on that. I want to thank you for many of the cleanup areas that we've moved forward on in Colorado. This hasn't been just in the past year, but it's been over a period of time—Rocky Flats, Rocky Mountain Arsenal, Shattuck Cleanup Site—and we're working on some other sites, too. I appreciate your cooperation in that regard.

A concern that I raise in my comments is that we have to be very sensitive to what is happening in small communities. Many times when we're passing rules and regulations and doing enforcement in small communities, they simply can't afford to do whatever is required. I think we need to be sensitive, in some way. We just can't shut down the small community.

Mr. JOHNSON. Right.

Senator ALLARD. So, somehow or other, we need to figure out ways and, I think, maybe take more of a supportive role. Many of the fines and everything that get applied are very appropriate to a large community. But in a small community it's just—becomes unreasonable. I think that, somehow or the other—I don't know whether you have that flexibility because of current law; sometimes you don't—but in other—in some cases, where law permits—and I think we need to be somewhat flexible—there are some challenges on some clean-water issues for small communities and whatnot, and some environmental issues.

PREPARED STATEMENT

I've been contacted by a number of them. I'm sure that there's a number of Senators up here from smaller States that have had some of the same conversations with their smaller communities. So, I'd just bring that to your attention, and I'll have my full statement put in the record.

Thank you very much, Madam Chairman.
[The statement follows:]

PREPARED STATEMENT OF SENATOR WAYNE ALLARD

Madam Chairwoman, thank you for holding this hearing today. While the EPA oversees the many important environmental regulations and requirements, some of these regulations may have a disproportionate effect on small communities. I think that this fact makes it very important for Congress to exercise close oversight of the Agency and its funding.

I would like to begin by congratulating you, Administrator Johnson, on EPA's new home in Denver. I understand that the recently completed building is likely to receive a silver LEEDs rating. As a founding member of the Renewable Energy and Energy Efficiency Caucus I am very pleased to hear that the federal government is leading by example in this area.

I would also like to thank you for the leadership role EPA has played at the clean-up of the Rocky Flats site, the Rocky Mountain Arsenal and the Shattuck site in Denver. Those areas are of great importance to the people of Colorado and to me.

I cannot stress enough the need to utilize sound, peer-reviewed science when making decisions about increasing regulations. I also believe that the cost-benefit analysis of regulations should be given more weight in many situations—such a cost-benefit analysis should take into account the size of the systems and income level of the users who will bear the cost. Even with such considerations, some communities simply cannot afford to implement the types of upgrades that are required to meet ever evolving federal requirements. I believe that the federal government should step up and help these communities instead of pushing down yet another unfunded mandate on them.

Finally, I have mentioned in previous years that I have had concerns with a climate within EPA that seems to lean heavily toward enforcement. From communications I have had with constituents, it has seemed that EPA was no longer interested in assisting communities in complying with regulations set by EPA. Instead reports of heavy-handed enforcement were the norm. Although enforcement is certainly a responsibility that has been delegated—and sometimes mandated—to EPA from Congress, small communities often do not have the expertise to meet new regulations on their own. The EPA should be willing to help communities who operate in good-faith efforts to meet federal requirements, rather than simply wait until they are able to take enforcement action.

I am pleased to report this year that the news I have been hearing recently is more encouraging. Several of our small communities are reporting that EPA seems to have acquired new flexibility and is more willing to work with them. While things are not yet perfect, I am happy to hear of this progress. However I noted with some disappointment that EPA is requesting a substantial increase in their enforcement budget. When small communities are subjected to fines there is less funding for correcting the problems that triggered the fines in the first place. I think that we can all agree that upgrading water infrastructure, for example, is a far better use for a community's funds than is paying a fine. I hope this requested increase in funding does not mean that the agency is stuck in the mindset that enforcement of regulations is more important than helping communities meet those regulations.

I look forward to working with the Administrator, and my colleagues in the Senate, to see that EPA is able to reasonably carry out their mission. And I look forward to working with the committee to ensure that activities at the Environmental Protection Agency are funded in a manner that is responsible and sufficient.

Senator FEINSTEIN. Thank you, Senator.
Senator Domenici.

STATEMENT OF SENATOR PETE V. DOMENICI

Senator DOMENICI. Madam Chairperson, I will just make a very brief statement, knowing that it'll—eventually, I'll have a chance, during questions, to bring up the issue.

We have a terrible problem of arsenic in the small communities. So do you. We just can't meet the standard that they've set. Some of our small communities are now under the gun for real. We've been kind of putting it off, putting it off, begging, begging. But I think you've gotten to the point where you're going to have to do something, but I don't know what it will be. I don't think we're going to close a bunch of small communities' systems down. They're doing the very, very best they can. I'll ask some questions, just to see if there's any more chances that we have, and any opportunities, that our small communities have to get out again from under this yoke that's strangling them.

I thank you for your cooperation, and your office. You have been out there to see how bad it is, and you know the arsenic standards for the small communities are, for all intents and purposes, not achievable.

With that I'll hold until my questions. Thank you for your time.
Senator FEINSTEIN. Thank you, Senator.

Mr. Johnson, we'll turn it over to you now. I think you've heard the concerns of individual committee members. I know they'd appreciate it, to the extent you can address them in your opening remarks.

SUMMARY STATEMENT OF STEPHEN L. JOHNSON

Mr. JOHNSON. Thank you very much, Madam Chairman. Thank you and members of the committee.

I am pleased to be here to discuss the President's fiscal year 2008 budget request for the Environmental Protection Agency. The President's \$7.2 billion request builds upon EPA's record of accomplishments and funds its role as our Nation enters the next phase of environmental progress.

Over our 36 years, EPA has laid a strong foundation to shift America to a green culture. Our citizens are embracing the fact that environmental responsibility is everyone's responsibility. So, instead of having only 17,000 EPA employees working to protect

the environment, we now have 300 million Americans as environmental partners.

These are exciting times. Our air, water, and land are cleaner today than a generation ago. With this budget, our progress will continue.

The evolution of environmental progress has come in—about, in part, because we have proven that a healthy environment and a healthy economy can, in fact, go hand-in-hand. As the economy continues to grow, so do our energy needs. In order to help meet the President's ambitious clean energy and air goals, EPA's budget requests over \$82 million to support our Energy Policy Act responsibilities. This includes \$8.4 million to implement the Renewable Fuel Standards, and \$35 million for grants to cut diesel emissions from trucks and school buses.

EPA also plays a vital role in advancing the administration's aggressive, yet practical, strategy for reducing greenhouse gas emissions. The President has requested \$117.9 million for EPA's climate change programs, including \$44 million for the successful Energy Star program, \$5 million for the Asia-Pacific Partnership initiative, and \$4.4 million for the Methane to Markets program.

The evolution of environmental progress requires EPA to work effectively with our State and local partners. The President's budget builds upon this cooperation by providing \$2.7 billion to help our partners improve their water quality. We are also promoting the use of innovative, tax-exempt, private activity bonds for capital investments in drinking water and wastewater projects.

Additionally, collaboration is the key to protecting America's great water bodies. In order to strengthen the efforts of EPA and our partners, the President is requesting \$28.8 million for the Chesapeake Bay, \$56.8 million for the Great Lakes, \$4.5 million for the Gulf of Mexico, and \$1 million for the Puget Sound.

At EPA, we're working productively with our partners to deliver a healthier and more prosperous future. The President's budget provides \$1.2 billion for the Superfund program to continue transforming hazardous waste sites back into community assets.

After highlighting some of these cooperative initiatives, we also must recognize the necessity of vigorously enforcing our Nation's environmental laws. The proposed fiscal year 2008 enforcement budget, \$549.5 million, is the highest enforcement budget ever.

As EPA helps shape America's green culture, we understand the need to advance environmental science. The President's commitment to sound science is reflected in his \$134 million request, an increase of \$9.4 million, to fund human health risk, clean air, and nanotechnology research.

Finally, I must mention EPA's evolving role from being guardians of the environment to, also, guardians of our homeland. The President has requested \$152 million for our homeland security responsibilities in water security and decontamination efforts.

While the Nation's environment progress continues to evolve, so does EPA's role. This budget will fulfill EPA's responsibilities of being good stewards of the environment and good stewards of our Nation's tax dollars.

PREPARED STATEMENT

By making smart use of our resources, we're not only building on our Nation's environmental accomplishments, we're creating a lasting legacy for future generations of Americans.

Thank you, and I look forward to addressing your questions.

Thank you, Madam Chairwoman.

[The statement follows:]

PREPARED STATEMENT OF STEPHEN L. JOHNSON

Madam Chairman and members of the committee, I am pleased to be here today to discuss the fiscal year 2008 budget request for the Environmental Protection Agency (EPA). The President has requested \$7.2 billion to support the work of EPA and our partners nationwide. This funding illustrates the administration's unwavering commitment to setting high environmental protection standards, while focusing on results and performance, and achieving the goals outlined in the President's Management Agenda.

The President's request builds on EPA's long record of accomplishments and funds its role as America enters into the next phase of environmental progress. These are exciting times for our Nation's environment. Since its founding, EPA has laid a strong foundation of environmental progress. Our air, water and land are cleaner today than they were just a generation ago, and with this year's budget, this progress will continue.

While our Nation's environmental results are significant, it is important to understand how they're being achieved. Over our 36 years, EPA has laid a strong foundation to shift America into a "green" culture. Today, instead of having just 17,000 EPA employees working to protect the environment, we now have over 300 million Americans as environmental partners. Americans from all sectors of society—businesses, communities and individuals—have begun to embrace the fact that the environment is everyone's responsibility, not just the responsibility of EPA.

Madam Chairman, the fiscal year 2008 budget will fund our new role in this next exciting phase of environmental progress.

Our Nation is committed to balancing the budget, and EPA is a proud partner in this effort. EPA is not only a good steward of our environment, but it is a good steward of our Nation's tax dollars. We are accountable for spending the taxpayer's money efficiently and effectively, while focusing on wisely investing in environmental results.

CLEAN AIR AND GLOBAL CLIMATE CHANGE

The fiscal year 2008 President's Budget requests \$912 million for the Clean Air and Global Climate Change goal at EPA. EPA implements this goal through its national and regional programs that are designed to provide healthier air for all Americans and protect the stratospheric ozone layer while also minimizing the risks from radiation releases, reducing greenhouse gas intensity, and enhancing science and research. In order to carry out its responsibilities, EPA utilizes programs that include many common elements, including: setting risk-based priorities; facilitating regulatory reform and market-based approaches; partnering with state, tribal, and local governments, non-governmental organizations, and industry; promoting energy efficiency; and utilizing sound science.

The Clean Air Rules are a major component of EPA work under Goal 1 and include a suite of actions that will dramatically improve America's air quality. Three of the rules specifically address the transport of pollution across state borders (the Clean Air Interstate Rule, the Clean Air Mercury Rule, and the Clean Air Nonroad Diesel Rule). These rules provide national tools to achieve significant improvement in air quality and the associated benefits of improved health, longevity and quality of life for all Americans. In fiscal year 2008, EPA will be working with the states and industry to implement these rules.

In order to address the Nation's growing energy challenges, EPA's request supports activities associated with the Energy Policy Act of 2005. These activities include the implementation of the Renewable Fuel Standards that will promote the use of renewable fuels, diversify our energy sources, and reduce our reliance on oil. EPA's request provides \$35 million to support the new Diesel Emission Reduction Grants program that is designed to reduce diesel emissions in trucks and school buses through retrofitting and replacing existing engines. This program will target

projects in areas that don't meet air quality standards to help ensure improvements occur in areas of the country where the benefits are needed most.

In fiscal year 2008, EPA's climate protection programs will continue its government and industry partnerships to achieve reductions in greenhouse gas emissions and contribute to the President's goal of reducing greenhouse gas intensity by 18 percent in 2012. The President's request for EPA's voluntary partnership climate change programs and research on technology and science in fiscal year 2008 is \$118 million. The request includes \$4 million for the Methane to Markets Partnership which promotes methane recovery and use in landfills, coal mines and natural gas facilities. In addition, EPA's request provides \$5 million to support the Asia Pacific Partnership—this partnership supports international efforts to reduce greenhouse gas emissions by creating new investment opportunities, building local capacity, and removing barriers to the introduction of more efficient technologies. EPA's climate partnership and technology research efforts are components of the administration's Climate Change Technology Program. In addition, EPA's Global Change research program coordinates its efforts and actively contributes to the administration's Climate Change Science Program.

CLEAN AND SAFE WATER

The fiscal year 2008 President's Budget requests \$2.7 billion to implement the Clean and Safe Water goal through programs designed to improve the quality of surface water and drinking water. EPA will continue to work with its state, tribal, and local partners to achieve measurable improvements to the quality and safety of the Nation's drinking water supplies as well as the conditions of rivers, lakes and coastal waters.

The President's request continues the administration's commitments to the Clean Water and Drinking Water State Revolving Funds. The President funds the Clean Water State Revolving Fund (CWSRF) at \$688 million, supporting the cumulative capitalization commitment of \$6.8 billion for 2004–2011 and enabling the CWSRF to eventually revolve at an annual level of \$3.4 billion. The budget proposes \$842 million for the Drinking Water State Revolving Fund (DWSRF), essentially the same as the 2007 level. This request keeps the administration's commitment of achieving a long-term \$1.2 billion revolving level.

EPA has worked with Treasury and other parts of the administration to propose expanded use of tax-exempt Private Activity Bonds for capital investments in drinking water and wastewater projects. The President's Budget proposes to exempt PABs from the private activity bond unified state volume cap. PABs are tax-exempt bonds issued by a state or local government, the proceeds of which are used by another entity for a public purpose or by the government entity itself for certain public-private partnerships. By removing drinking water and wastewater bonds from the volume cap, this proposal will provide states and communities greater access to PABs to help finance their water infrastructure needs and increase capital investment in the Nation's water infrastructure.

This Water Enterprise Bond proposal would provide an exception to the unified annual State volume cap on tax-exempt qualified private activity bonds for exempt facilities for the "furnishing of water" or "sewage facilities." To ensure the long-term financial health and solvency of these drinking water and wastewater systems, communities using these bonds must have demonstrated a process that will move towards full-cost pricing for services within 5 years of issuing the Private Activity Bonds. This will help water systems become self-financing and minimize the need for future subsidies.

LAND PRESERVATION AND RESTORATION

The Agency's fiscal year 2008 budget request to Congress implements the Land Preservation and Restoration goal through EPA's land program activities that promote the following themes: Revitalization, Recycling, Waste Minimization, and Energy Recovery; Emergency Preparedness and Response; and Homeland Security.

The President's budget provides \$1.2 billion for the Superfund program to continue progress cleaning up the Nation's most contaminated hazardous waste sites. As of the end of fiscal year 2006, cleanup construction has been completed at 1,006 National Priorities List (NPL) sites. The Superfund program often completes short-term removal actions to mitigate immediate health threats at sites prior to completion of investigations and the start of long-term cleanup construction.

EPA has continued its efforts to efficiently utilize every dollar and resource available to clean up contaminated sites and to protect human health. In fiscal year 2006, EPA obligated \$390 million of appropriated, state cost-share, and responsible party funding to conduct ongoing cleanup construction and post-construction work

at Superfund sites that includes nearly \$45 million to begin construction at 18 new Superfund projects. Based upon the construction schedules, EPA expects to complete construction of all remedies at 24 sites in fiscal year 2007 and 30 sites in fiscal year 2008. EPA expects to complete construction at 165 sites during the fiscal year 2007 to fiscal year 2011 time period, the goal established in the Agency's fiscal year 2006 to fiscal year 2011 Strategic Plan.

In fiscal year 2008, the Agency is requesting \$34 million for the Underground Storage Tank Program to provide assistance to states to help them meet their new responsibilities, that include: (1) mandatory inspections every 3 years for all underground storage tanks; (2) operator training; (3) prohibition of delivery to non-complying facilities; (4) secondary containment of financial responsibility for tank manufacturers and installers; (5) various compliance reports; and (6) grant guidelines. The Agency is also submitting new legislative language to allow states to use alternative mechanisms, such as the Environment Results Program, to meet the mandatory 3-year inspection requirement. This proposal provides states with a less costly alternative to meet the objectives of the Energy Policy Act.

HEALTHY COMMUNITIES AND ECOSYSTEMS

In fiscal year 2008, EPA's Budget carries out the Healthy Communities and Ecosystems goal via a combination of regulatory, voluntary, and incentive-based programs. A key component of the Healthy Communities and Ecosystems goal is to reduce risks to human health and the environment through community and geographically-based programs.

In fiscal year 2008, \$162.2 million was requested for the Brownfields program to support research efforts with additional assessments, revolving loan fund, cleanup grants and workforce development programs. When leveraged with state and local resources, this Brownfield funding will help assess more than 1,000 properties, clean up more than 60 sites, and address petroleum contamination in more than 40 communities.

EPA focuses on collaborative place-based programs to protect the great waterbodies—the Chesapeake Bay, the Great Lakes, the Gulf of Mexico and the Puget Sound.

The Chesapeake Bay is the largest estuary in the United States and a water resource of tremendous ecological and economic importance. The greatest success in the last 5 years has been the water quality initiative that has resulted in new water quality standards for the Bay, the adoption of nutrient and sediment allocations for all parts of the watershed that meet new standards, and tributary-specific pollution reduction and habitat restoration plans. To continue to carry out these functions, the fiscal year 2008 President's Budget requests \$29 million in fiscal year 2008, an increase of over \$2 million from the previous President's Budget request. Within the request is \$8 million for competitive grants for innovative, cost-effective non-point source watershed projects, which reduce nutrient and/or sediment discharges to the Bay.

The Great Lakes are the largest system of surface freshwater on earth, containing 20 percent of the world's surface freshwater and accounting for 84 percent of the surface freshwater in the United States. The goal of the Agency's Great Lakes Program is to restore and maintain the chemical, physical and biological integrity of the Great Lakes Basin Ecosystem. The President's fiscal year 2008 budget commits \$57 million towards continuing efforts by EPA's Great Lakes program, working with state, local, and tribal partners and using the Great Lakes Regional Collaboration Strategy as a guide to protect and restore the Great Lakes. The Agency will focus on working with partners to clean up and de-list eight Areas of Concern (AOCs) by 2010, emphasizing clean up of contaminated sediments under the Great Lakes Legacy Act. EPA will continue to work towards reducing PCB concentrations in lake trout and walleye and keeping Great Lakes beaches open and safe for swimming during the beach season.

The fiscal year 2008 President's Budget Request provides \$4.5 million for the Gulf of Mexico program to support Gulf States and stakeholders in developing a regional, ecosystem-based framework for restoring and protecting the Gulf of Mexico.

EPA efforts in the Puget Sound are focused on the Basin's highest priority environmental challenges: air and water quality. The fiscal year 2008 Budget provides \$1 million for restoration activities to improve water quality and minimize the adverse impacts of rapid development.

Another major focus of the Healthy Communities and Ecosystems goal is identifying, assessing, and reducing the risks from pesticides. In fiscal year 2008, EPA will continue identifying and assessing potential risks from pesticides. In addition, EPA will set priorities for addressing pesticide risks and promoting innovative and

alternative measures of pest control. EPA will continue to meet its pesticide-related homeland security responsibilities by identifying and reviewing proposed pesticides for use against pathogens of greatest concern for crops, animals, and humans. EPA will continue to work closely with other federal agencies and industry to implement its Registration Review program that will review existing pesticide registrations on a 15-year cycle to ensure that registered pesticides in the marketplace continue to be safe for use in accordance with the latest scientific information.

COMPLIANCE AND ENVIRONMENTAL STEWARDSHIP

The EPA's fiscal year 2008 Budget request of \$743.8 million for the Compliance and Environmental Stewardship goal provides funding for programs that monitor and promote enforcement and compliance with environmental laws and policies. The Agency will also support stewardship through direct programs, collaboration and grants for pollution prevention, pesticide and toxic substance enforcement, environmental information, and continuing an environmental presence in Indian Country.

In fiscal year 2008, the budget for this goal also provides \$56.9 million for GAP grants, which will build tribal environmental capacity to assess environmental conditions, utilize available federal information, and build an environmental program tailored to tribes' needs. The grants will develop environmental education and outreach programs, develop and implement integrated solid waste management plans, and alert EPA to serious conditions that pose immediate public health and ecological threats. Through GAP program guidance, EPA emphasizes outcome-based results.

ENFORCEMENT

In fiscal year 2008, the proposed total of \$549.5 million represents the highest requested enforcement budget. This request for an increase of \$9.1 million reflects the administration's strong commitment to the vigorous enforcement of our Nation's environmental laws and ensures that we will have the resources necessary to maintain a robust and effective enforcement program.

EPA's enforcement program continues to achieve outstanding enforcement results with settlements over the past 3 years resulting in commitments of nearly \$20 billion in future pollution controls. As an outcome of EPA's Superfund enforcement actions in fiscal year 2006, parties held responsible for pollution will invest \$391 million to clean up 15 million cubic yards of contaminated soil and approximately 1.3 billion cubic yards of contaminated groundwater at waste sites. These results show a strong and vigorous enforcement program that will be attainable under the fiscal year 2008 Request.

RESEARCH

EPA conducts research that provides a scientific foundation for the Agency's actions to protect the air that all Americans breathe. In fiscal year 2008, EPA's air research program will support implementation of the Clean Air Act, especially the National Ambient Air Quality Standards (NAAQS). The NAAQS programs will focus on tropospheric ozone, particulate matter, carbon monoxide, sulfur dioxide, nitrogen oxides, and lead. EPA also conducts research to improve understanding of the risks from other hazardous air pollutants, known as air toxics. EPA is also one of many federal agencies that actively contribute to the administration's Climate Change Science Program.

Other important areas of research in fiscal year 2008 will include: (1) development of molecular microarrays for detection of bacterial pathogens and non-pathogenic microbes in drinking water source waters; (2) epidemiological studies on the illness rates resulting from untreated groundwater and distribution systems; (3) studies on the practices, such as blending, for handling significant wet weather events to identify "best practices" for preventing peak wet weather flows from overwhelming wastewater treatment facilities while protecting water quality; and (4) providing more efficient monitoring and diagnostic tools through continued research to develop methods of using landscape assessments for monitoring and assessing watershed conditions. These programs will help assess risks and priorities for ensuring clean water.

EPA is requesting \$10.2 million in fiscal year 2008 for nanotechnology research, which will focus primarily on the potential implications of manufactured nanomaterials on human health and the environment. The Agency's efforts are coordinated with other federal agencies through the National Nanotechnology Initiative (NNI), which the administration has identified as a fiscal year 2008 research and development budget priority. In fiscal year 2008, EPA's Science to Achieve Results (STAR) program will continue to fund exploratory grants on the potential im-

plications of manufactured nanomaterials on the environment and human health, in collaboration with other federal agencies.

The Agency also will continue in-house nanotechnology research initiated in fiscal year 2007. The integrated programs will focus on: (1) assessing the potential ecological and human health exposures and effects from nanomaterials likely to be released into the environment; (2) studying the lifecycles of nanomaterials to better understand how environmental releases may occur; (3) developing methods to detect releases of nanomaterials; and (4) using nanotechnology to detect, control, and remediate traditional pollutants.

Recognizing that environmental policy and regulatory decisions will only be as good as the science upon which they are based, EPA makes every effort to ensure that its science is of the highest quality and relevance, thereby providing the basis for sound environmental decisions and results. EPA uses the federal Research and Development (R&D) Investment Criteria of quality, relevance, and performance in its decision-making processes through: (1) the use of research strategies and plans; (2) program review and evaluation by the Board of Scientific Counselors (BOSC) and the Science Advisory Board (SAB); and (3) independent peer review.

HOMELAND SECURITY

Following the cleanup and decontamination efforts after the terrorist incidents in 2001, the Agency has focused on ensuring we have the tools and protocols needed to detect and recover quickly from deliberate incidents. The emphasis for fiscal year 2008 is on several areas including decontaminating threat agents, protecting our water and food supplies, and ensuring that trained personnel and key lab capacities are in place to be drawn upon in the event of an emergency. Part of these fiscal year 2008 efforts will continue to include activities to implement a common identification standard for EPA employees and contractors such as the Smartcard initiative.

EPA has a major role in supporting the protection of the Nation's critical water infrastructure from terrorist threats. In fiscal year 2008, EPA will continue to support the Water Security Initiative (formerly known as Water Sentinel) pilot program and water sector-specific agency responsibilities, including the Water Alliance for Threat Reduction (WATR), to protect the Nation's critical water infrastructure. The fiscal year 2008 budget provides \$22 million for the Water Security Initiative to continue operation at the existing pilot systems and to begin deployment of the last pilot systems. Ultimately, an expansion of the number of utilities will serve to promote the adoption of Water Security within the water sector. Functioning warning systems, among several utilities of potentially divergent configurations, will afford a more compelling outcome than just one utility. After start-up of the remaining pilot systems in 2008, the program will ramp down as EPA shifts its focus to evaluation of the pilots. EPA will continue support of each pilot for 3 years, after which the host cities will assume maintenance of these systems and over time bring them to full-scale operation. By the end of fiscal year 2007, EPA will issue interim guidance on design and consequence management that will enable water utilities to deploy and test contamination warning systems in their own communities.

In fiscal year 2008, the Agency, in collaboration with our water sector security stakeholders, will continue our efforts to develop, implement and initiate tracking of national measures related to homeland security critical infrastructure protection activities.

In summary, this budget will enable us to carry out the goals and objectives as set forth in our Strategic Plan, meet challenges through innovative and collaborative efforts with our state, tribal, and private entity partners, and focus on accountability and results in order to maximize environmental benefits. The requested resources will help us better understand and solve environmental challenges using the best available science and data, and support the President's focus on the importance of homeland security while carrying out EPA's mission.

Senator FEINSTEIN. Thank you very, very much. Appreciate it.
Mr. JOHNSON. Thank you.

SAN JOAQUIN VALLEY

Senator FEINSTEIN. If I may, let me raise an issue of concern to me, which is the San Joaquin Valley. As you know, it is a non-attainment area. It faces very serious strictures, which could shut down the economy if they can't meet their attainment standards.

There is virtually no way, presently, that they know how to meet those attainment standards. The valley's geography traps pollution; and so, there are too many different sources coming into the valley, many of which are of no fault to the valley. Additionally, it's a big area; consequently, the diesels play a role.

Mobile sources are the biggest polluters, but there's no way it can meet its Federal ozone standard by 2013, even if it were to ban all cars and all trucks from the San Joaquin Valley.

What are you doing to help them comply? What could the EPA do, if Congress provided additional resources?

Mr. JOHNSON. Well, Madam Chairman, we, too, share your concern about the San Joaquin Valley, and, in fact, are committed, and have been working through our Region 9 office to help businesses and the local air-management districts there. As you point out, they are going to require additional time for attainment. Their final draft of their ozone plan, which was issued in January, moves the attainment time to 2023. This will provide some additional time to help, but also will entail additional requirements to add local measures to try to help achieve.

Senator FEINSTEIN. Do you—

Mr. JOHNSON. So, we're—

Senator FEINSTEIN [continuing]. Support that—moving the attainment time? Can it be done, legally?

Mr. JOHNSON. Yes, it can be done, legally. We're very supportive of working with the Valley and the businesses to help in every way we can. Of course, the steps that we've taken for diesel, both on-road and off-road, as well as the recent proposal for locomotives and marines, again, all help. You have my commitment that we're going to continue to work to help the Valley achieve their attainment status as quickly as possible.

CLEAN DIESEL GRANT

Senator FEINSTEIN. Well, as you know, you have to convert 11 million diesels. As you also know, the Clean Diesel Grant is authorized at \$200 million. You only ask for \$35 million in your budget this year. Why is that?

Mr. JOHNSON. We believe that we are committed to make the diesel puff of smoke something you only read about in history books, and, through our regulations, as well as through the President's request of \$35 million, we believe we continue to make progress in doing that. The good news is, we're going to continue to deliver results while meeting a balanced budget. The \$35 million requested as part of the President's budget, will be leveraged through the grant mechanism into \$72 million. Putting it in terms of health benefits, that will derive \$1.4 billion in health benefits. So, while there is much to be done, this continues to deliver results, and we're committed to make that happen.

NONATTAINMENT AREAS

Senator FEINSTEIN. Now, 30 percent of your request, about \$10.5 million, will go to States to fund grants for nonattainment areas, but the remaining money, about \$24.5 million, is not targeted to any particular need or region. What is the plan for that \$24.5 million?

Mr. JOHNSON. Let me ask our Acting Assistant Administrator, Bill Wehrum, to come to the table, and he can describe the plan in greater detail.

Bill?

Mr. WEHRUM. Good morning, Madam Chair. My name is Bill Wehrum. I'm the Acting Assistant Administrator for Air and Radiation.

There are needs across the country with regard to funding diesel retrofit programs, so we tried to create a balance, in the budget that has been proposed: to target a significant amount of money in the areas that need it most, which are the nonattainment areas, but not to leave out many other areas of the country that have clean air, but also have dirty diesels.

Senator FEINSTEIN. Well, will this be done on a priority basis?

Mr. WEHRUM. We try very hard to prioritize, but also to provide adequate and substantial funding for the many needs across the country, Madam Chair.

Senator FEINSTEIN. Well, I mean, this is a problem for me. If you have an area that geographically can't meet its ozone requirements—and this area can't meet it, even as I say, if they prohibited every car and truck from entering the area, they still can't meet them. Therefore, the only thing they can do is make the changes in the diesel engines. It's a priority area, because it's a nonattainment area. I don't think any of these other areas, outside of Los Angeles, perhaps, in the United States, have the same problems as this area does. So, it's a pretty important priority, it seems to me. What you sounded like is, this is going to be another revenue-sharing program that's going to be spread, kind of, based on the politics of it. I hope that's not the case.

Mr. Johnson.

Mr. JOHNSON. Well, Madam Chairman, we are very interested in prioritizing these grants to those areas of nonattainment. As you aptly point out, the San Joaquin Valley and Cleveland, Houston, Dallas/Fort Worth, are all areas that are in nonattainment that would greatly benefit by these kind of grant monies. Again, our first priority is to try to help in those nonattainment areas.

Senator FEINSTEIN. Well, I appreciate that, and I thank you for going on the record.

Mr. JOHNSON. Thank you.

Senator FEINSTEIN. The next question—and I'll—this is my last one—is, this is just 30 percent, about \$10.5 million would go to States in nonattainment areas. I would ask you to work with me on that and re-look at it, based on these nonattainment areas around the United States, and what the strictures are on them, and what options they have, and then perhaps tailor this money to the most needy.

Mr. JOHNSON. Look forward to working with you.

Senator FEINSTEIN. Thank you very much, Mr. Johnson.

Senator Craig.

CLEAN WATER STATE REVOLVING FUND

Senator CRAIG. Administrator Johnson, I spent a little time in the San Joaquin on agricultural issues and labor issues. In just conversation with the agricultural community alone, I'm always

amazed at the amount of money they are now committing to retrofitting and changing and trying to come into compliance. It is literally hundreds of millions of dollars annually. Of course, the Senator from California and I work on agricultural issues. We know that sometimes their profitability margins are, at best, marginal, and their input costs are phenomenal. This is an input cost in that valley that is—if it were in Idaho, based on our cropping patterns, it would shut our agriculture down. It would really be quite that simple. They could not afford what California is attempting to afford, at this time.

Let me talk about Clean Water State Revolving Fund. We've all expressed our concern about it. You've heard the Senator from New Mexico and I talk about uniqueness's that we have, but also a standard that—you know, I can question the science of it. It—that hardly makes a headline anymore. The reality is, here, the standards have been accepted, and now everybody rushes to comply, or attempt to comply.

Can you tell me how EPA intends to help rural and poor communities maintain sewage plants and mitigate nonpointsource pollutions, and face the reality of what they need to get done, with that kind of a proposed cut?

Mr. JOHNSON. Well, Senator, we are committed, as an agency, to help each of the States, whether they be small water systems or large water systems, to comply. The Clean Water State Revolving Loan Fund, that the President has requested in 2008, is at a level that supports his commitment. It's his commitment to extend the coverage from 2004 to 2011. This year's request is \$687.6 million, revolving at \$3.4 billion. That's the money side of it.

This year, the President is proposing a very innovative solution, and that is the use of private activity bonds. Of course, that will require a change in the internal tax code, which we would urge Members of Congress to pass. We continue to support full-cost pricing and other programs, including research and development. In part of the President's budget for 2008, there are monies to help in infrastructure research and development. So, we think these, coupled with improvements in efficiency, will help move us to a sustainable infrastructure.

PRIVATE ACTIVITY BONDS

Senator CRAIG. Steve, you mentioned private activity bonds. I'm on the board of a think tank out West called the Center for the New West. We've held a series of meetings across the West and in California about the realities of all of these water issues—sewage, waste, water quality, urban water in—the whole combination of things—along with Bureau of Reclamation and their responsibility. There's a very obvious bottom line out there; and that is, nobody should expect the Federal Government to pay for all of it.

Mr. JOHNSON. Right.

Senator CRAIG. At the same time, this standard is a Federal mandate, "You will comply," period. It's not a local mandate. It's not a State mandate. It is a Federal mandate.

Having said that, though, the world in which we live in today out West is not the world of 70 years ago, when we were developing the West; it is a pretty developed, sophisticated, and very wealthy

area today, in most respects. But when it takes on some of these water projects that are just phenomenally expensive, it needs flexibility in doing so—a little Federal help, local help.

Talk to us more about this tax-exempt idea. I assembled a group of Wall Street investors in San Diego, Madam Chairman, about 3 months ago, to have this kind of conversation with urban and municipal water managers and developers. The Federal Government really does need to move in this area. We ought to be sensitive to the values of it, because it is a great new way of finding resources that we simply cannot budget up to, if you will, at the Federal level.

Beyond just talking about it, what do you plan to do about it? Is it going to be advocated by the administration? Is it going to be part of their proposal? Are they going to go before the Senate Finance Committee, try to accomplish something like this?

Mr. JOHNSON. It is part of the President's 2008 budget request. We are advocating that the tax code be changed to remove the cap that's currently in the tax law. That would allow private activity bonds so that additional investments could be made.

Some of the analysis that we've done would indicate that, with these private activity bonds, we would see investments literally in the billions of dollars that would otherwise not be available because of the current cap in the current law. Here's a great opportunity for us to help strengthen our infrastructure by an infusion of monies through private activity funds. Yes, the administration is very supportive.

Senator CRAIG. There are also concepts, Madam Chairman, that we ought to look at that are scored differently, or it is believed they would be scored differently than private activity bonds so that they don't fit the kind of frustration that OMB has as it relates to the expansion of some of these types of things being, if you will, a liability factor involved. They really hinge on opportunity and tax—unique tax advantages within—advantages within the investment community that don't push a Federal obligation.

Thank you.

Senator FEINSTEIN. Thank you—

Mr. JOHNSON. Madam Chairman, if I might just add, on March 21 through March 23, we are having a summit on innovative financing. It's a summit that we've been working with, with the Western Governors.

Senator CRAIG. That's good.

Mr. JOHNSON. You're all welcome to come.

Senator FEINSTEIN. Thank you very much. Thank you.

Senator Allard, you're next.

COST-BENEFIT ANALYSIS

Senator ALLARD. Madam Chairman, thank you.

I'm just curious, do you include a cost-benefit analysis when you're setting your new regulations, or when implementing new thresholds? If you are, are you applying that to certain specific groups of size communities?

Mr. JOHNSON. The Executive Order No. 12866 requires that any economically significant regulation, which is defined as greater than \$100 million impact, include a cost-benefit analysis. Now,

having said that, there are certain restrictions that are inherent in legislation. For example, in establishing a National Ambient Air-Quality Standard, as Administrator, I am strictly forbidden by law to consider the costs associated with setting the health standard. Other laws, in some cases, specifically, require that a cost-benefit analysis be done, regardless of that threshold. So, understand that we have an executive order that requires cost-benefit analysis, laws sometimes require that we conduct it; in some cases, as I make a decision, I'm strictly prohibited from including that cost consideration in my decision. The National Ambient Air-Quality Standard is a prime example of the latter.

GOOD SAMARITAN BILL

Senator ALLARD. I see. Now, one of the things that we're working on in Colorado—and it's a bipartisan effort, both Republicans and Democrats working on it—is a Good Samaritan bill——

Mr. JOHNSON. Yes.

Senator ALLARD [continuing]. Which looks at abandoned mines and relieves the new owner of some liability if they move forward with cleanup of those particular mines. It's a particularly sensitive problem. We have these old abandoned mines that continue to discharge and cause water pollution problems, and yet nothing's done to clean them up. Until we can get that piece of legislation through the Congress, are you doing anything, administratively, in your—in the Environmental Protection Agency to move that forward so we can begin to get some of those abandoned cleaned? As you know, some of them are——

Mr. JOHNSON. Well——

Senator ALLARD [continuing]. Pretty toxic.

Mr. JOHNSON. Our commitment is to do everything we can to address the estimated 500,000 abandoned—and that is the key word—abandoned hardrock mines. We——

Senator ALLARD. That's throughout the country——

Mr. JOHNSON. That's throughout the country, principally in the West.

Senator ALLARD. That's a—sure.

Mr. JOHNSON. Principally in the West.

Senator ALLARD. Yeah.

Mr. JOHNSON. We have put in place, through our administrative procedures, at least one agreement, with Trout Unlimited, to actually clean up a mine. It was very resource-intensive. We believe that the best solution is legislation, as you have suggested. So, we would certainly urge Members of Congress to pass the Good Samaritan legislation. It makes sense to have groups who don't want to assume liability for an entire site, to go in and make a difference and help clean it up. So, we certainly are very supportive of Good Samaritan legislation.

Senator ALLARD. It doesn't make sense, when they didn't cause the problem, to hold them——

Mr. JOHNSON. That's exactly——

Senator ALLARD. It doesn't make any sense——

Mr. JOHNSON [continuing]. Right.

Senator ALLARD [continuing]. At all. And——

Mr. JOHNSON. It doesn't make any sense.

Senator ALLARD [continuing]. And they're there for the full sole purpose of making that property better, you know——

Mr. JOHNSON. Exactly.

Senator ALLARD [continuing]. From an environmental perspective. So——

Mr. JOHNSON. Good.

Senator ALLARD. Okay.

Madam Chairman, that concludes my questioning. Thank you. Or——Mr. Chairman.

I'm sorry. I didn't see who was in charge around here.

Senator CRAIG [presiding]. We're going to third reading right quickly.

Let me turn to the Senator from New Mexico. Senator Domenici?

Senator DOMENICI. Thank you. Thank you very much, Mr. Chairman. I will just take a minute. Thank you, Senator Allard.

First of all, I wanted to ask, Do you——did you know Paul Gilman?

Mr. JOHNSON. Yes. Yes. A great scientist, great colleague, and he served the agency and the Nation well. So, yes——

Senator DOMENICI. I was——

Mr. JOHNSON [continuing]. Sir, I did.

Senator DOMENICI [continuing]. Going to tell you, that's—I figured you and some of your cohorts knew him, but I wanted to report that I heard from him the other day. They're up—he's working in a private laboratory, and he has—his twins are growing like asparagus sprouts, and Angela, my secretary of years, was his personal friend——

Mr. JOHNSON. Yes.

ARSENIC STANDARD

Senator DOMENICI [continuing]. He and his wife's, and they sent for her the other day. She went up to spend a long weekend. She was used to babysitting, so they sent her up to do something akin to that.

Sir, I want to tell you, the problem of arsenic has not—while it—you know, we continue to say it's just around the corner, and therefore, we think it isn't going to bite us. It's there, and it's terrible, and we haven't done much about it. But I appreciate your ever-consistent ear of concern for the very small facilities that are really not going to be able to put in this equipment for this new standard. You began enforcing the standard in 2006. The level from 50 parts per billion down to only 10 parts. My home State of New Mexico has high levels of natural-occurring arsenic in its volcanic soil, so that 20 percent of the State's municipalities will have to treat their drinking water to meet this standard, compared to only 5.5 percent of the municipalities nationwide. Of the New Mexico communities impacted by this requirement, 90.93 percent are small communities—most, well below the national median household income level—and yet, they face increased costs of water, exceeding \$50 to \$90 a month. When EPA promulgated these new rules in 2001, small-community variances were not allowed, because EPA claimed that the rule was affordable for small communities based on extraordinary cost thresholds of \$1,000 per family. I am pleased that EPA has agreed to consider revisions to the national level affordability and methodology for very small drinking water systems.

However, the development of a new methodology by a lower affordability threshold by itself may not help poor communities in my State and some of the other States involved.

Can you commit to me that the EPA will quickly perform this revision, and the revision will apply retroactively to arsenic standard?

Mr. JOHNSON. Well, Senator, what I can commit to you is that we'll continue to aggressively work with the small communities in your State, and others, to help them achieve compliance with the arsenic standard. In the President's fiscal year 2008 budget, there's \$1.8 million for continuing the 50 demonstration projects, where we're looking at 15 cost-effective technologies that would help small systems. One of the provisions in the Arsenic Rule is to allow States to monitor; some States have availed themselves of additional time for monitoring to help sort through things.

In addition, we have been working with them through administrative orders to provide sufficient time to try to help them meet the standard. The good news is that, as we sit here today, approximately 50 percent of the systems have been able to comply with this new standard. The good news, 50 percent have; but we have work to do, and that's what we're committed to do to help.

Senator DOMENICI. Well, listen, I would be remiss if I didn't tell you that we very much owe you a debt of gratitude for your concern and consideration, and you're doing everything humanly possible. When you go out there and find this little tiny system out in the boonies, you're not closing them down. It wouldn't accomplish a great deal, you know, in terms of real effectiveness. I included four or five other questions in my packet of questions for today.

Mr. JOHNSON. Thank you.

Senator DOMENICI. I would appreciate your—if you would answer them. Maybe, if we have to, we'll get you and our experts together soon.

Mr. JOHNSON. Be happy to.

Senator DOMENICI [continuing]. To talk about what we might do. Thank you.

Thank you very much, Mr. Chairman.

Mr. JOHNSON. Thank you.

Senator CRAIG. Pete, thank you very much. We've just been joined by Senator Reed. Please proceed, if you're ready.

CLEAN WATER ACT

Senator REED. Thank you, Mr. Chairman. Thank you, gentlemen.

The Rhode Island Department of Environmental Management recently sent my office a letter concerning a proposed EPA rule regarding the Clean Water Act, section 106 grant funding. The proposed rule would set aside a portion of State section 106 funding to be distributed only to those States that generate 75 to 100 percent of their NPDS program costs through user fees. The Clean Water Act does not require the use of fees to fund the NPDS program. So, what legal authority are you using to require the States effectively to impose fees in order to qualify for these monies?

Mr. JOHNSON. Well, thank you, Senator. We believe that it's important that we invest in clean water. We believe that this section, 106 NPDS permit rule provides a financial incentive to utilize ade-

quate fee programs. The comment period closed on March 5, 2007. We're reviewing those comments. We believe this proposal helps promote sustainable management of State and local services, and we look forward to reviewing the public comments as we make our final determination on this rule.

Senator REED. Thank you very much, Mr. Administrator. Let me point out that, for Rhode Island to meet these proposed levels to qualify, they would have to increase fees seven times their current levels, which would be extraordinarily disruptive. Also, the State of Rhode Island contributes their general-fund monies, their own monies, to help regulate and administer the NPDES program. So, I would appreciate you keeping me posted about the rulemaking that goes forward, and to take into consideration the burden that this would impose on my State. I'm sure I'm not alone.

Mr. JOHNSON. Pleased to do so. Thank you, sir.

STAG PROGRAM—REDUCTIONS

Senator REED. Each year, EPA generates 50 or so new rules. They expect the States to make the changes, implement them, et cetera. It gets harder and harder to do that when the administration continues to propose significant cuts to the STAG program. How can we reconcile the ever-increasing burden, changes, et cetera, when there are decreasing monies—or at least proposed decreases in the STAG program?

Mr. JOHNSON. We believe that the President's fiscal year 2008 continues to deliver results while meeting a balanced budget. We continue to use the tax dollars to not only be good stewards in the environment, but good stewards of taxpayer dollars. We have an excellent working relationship with our States, and want to continue that. Certainly, we look for opportunities to leverage those tax dollars for the environment. Of course, Brownfields is an excellent example of that, as well as our actual enforcement program. So, certainly we are committed to working with our State partners to continue to improve and to use our resources wisely.

CLEAN WATER FUNDING

Senator REED. Well, let me ask a final question. It follows on, I think, a point that Senator Craig made with respect to rural communities. That's the proposed cuts in the budget for clean water funding. There's a national annual need of almost \$20 billion, with the Federal share being close to about \$5 billion for public health and economic development with respect to clean water. The demand, I know, not only in rural communities, but also in urban areas, like Rhode Island, is increasing for these clean water projects. One, I think a more robust funding level would be in order. Two, perhaps better incentives for the smarter use of these dollars might be called for, too. Do you have a comment?

Mr. JOHNSON. We think that there are a number of tools that we need to employ. One is the President's request for private activity bonds which requires a change in the tax code, which I certainly urge Members of Congress to do. We think that helps. Full-cost pricing helps. Another tool is a program that I launched recently, called WaterSense, which is modeled after Energy Star that would bring water efficiency labeling into products as a piece. We're—and,

obviously, continue to support meeting the President's commitment for both clean water as well as drinking water, State Revolving Loan Funds.

As I mentioned just briefly, we are hosting a conference, beginning on March 21 through the March 23. The title is "Paying for Sustainable Water Infrastructure: A Summit on Innovative Financing." We are looking at financing, and we're looking at policy. The last piece, which I didn't mention, is an investment in research and development, not only for small-community water systems, dealing with issues such as arsenic, but infrastructure needs, in general. So, we think that all of these tools will help us move in the direction of a more sustainable infrastructure.

Senator REED. I think what's been happening is that we've been taking water—its prevalence and its accessibility and its affordability for granted. I think we're beginning to see that—you know, systems all across the country having more and more difficult problems, in terms of infrastructure. Up our way, it's age. We have water systems that are upwards of 100-plus years old. But we have a big bill to pay. Our concern—my concern is that we're not putting the resources, either through appropriations or the tax system, to make it—to pay the bill, and do it in a smart way now.

Thank you.

Mr. JOHNSON. Thank you.

Senator REED. Thank you, Mr. Chairman.

ARSENIC STANDARDS

Senator CRAIG. Thank you, Senator.

We have a revolving chairmanship going on here which is fine, because other Senators are coming.

Let me, in passing through to Senator Alexander, Administrator, ask this question, and then I'm going to leave.

You've heard the whole conversation here. I understand policy sometimes can drive a variety of things to happen before it's feasible for them to happen. It can drive technology, it can do a variety of things. It is also something that is phenomenally intimidating to well-meaning people when they feel they are out of compliance and cannot get there, have no way of getting there without subjecting their clientele and—or their voter—to a cost that is just unrealistic. Do you think that setting arsenic standards at 10 parts per billion is affordable and feasible for a community of less than 1,000 people? Or should not, in doing that, there have been some kind of off-ramp, with certain activities in mind, that they might follow over a course of time as technology catches up to us?

Mr. JOHNSON. With regard to arsenic, or, for that matter, any chemical, we need to focus our decisions on: What is the level that provides sufficient health protection to our Nation's population, whether they're in a small community or a large community or wherever they might live? Of course, that's what was done for arsenic.

Senator CRAIG. Ten parts per billion, you believe the science was amply there to make the decision that was made.

Mr. JOHNSON. Yes, I do.

Senator CRAIG. Ok.

Mr. JOHNSON. So, then it becomes a matter of, if that is the health protective standard, then what are the steps that we can take to help communities achieve that, and achieve that in the most cost-effective way. That's what we're very actively working on, on arsenic, as well as other contaminants of concern across the United States.

Senator CRAIG. Ok.

Thank you very much. I'm going to have to leave, so I'll turn to the Senator from Tennessee, but I'll also turn him over the chairmanship.

How's that?

Senator ALEXANDER [presiding]. This is a very——

Senator CRAIG. I was granted——

Senator ALEXANDER [continuing]. Dangerous thing to do.

Senator CRAIG. I was granted that authority by the chairman, so have at it.

Senator ALEXANDER. Thank you very——

Senator CRAIG. Thank you both very much for being with us.

Mr. JOHNSON. Thank you, sir.

Senator ALEXANDER. Thank you, Senator Craig. I thank the chairman for this.

Administrator, welcome. I'm——

Mr. JOHNSON. Thank you.

CLEAN AIR INTERSTATE RULE

Senator ALEXANDER [continuing]. Glad to have a chance to talk with you. I'd like to talk with you a little bit about the Clean Air Interstate Rule——

Mr. JOHNSON. Yes.

Senator ALEXANDER [continuing]. A little bit about the success you've had over the last 15 years working on sulfur and nitrogen, and ask you about the future.

Mr. JOHNSON. Yes.

Senator ALEXANDER. Let me start with the Clean Air Interstate Rule. My sense of the Clean Air Interstate Rule is that it—which is the rule that you've adopted, I guess, nearly 2 years ago, to—in the EPA, to——

Mr. JOHNSON. Yes.

Senator ALEXANDER [continuing]. To regulate the use of sulfur and nitrogen—the emission of sulfur——

Mr. JOHNSON. Emission of sulfur dioxides——

Senator ALEXANDER [continuing]. And nitrogen——

Mr. JOHNSON [continuing]. Yes.

Senator ALEXANDER [continuing]. Pollutants. How would you describe the acceptance of that rule by those who care about the environment in the United States?

Mr. JOHNSON. Well, we're making great progress. There are 28 States and the District of Columbia that are subject to the Clean Air Interstate Rule. Nineteen States and the District of Columbia are preparing full State implementation plans. Eight States are preparing abbreviated, and two States are adopting the Federal implementation plan. We're very pleased that there is good progress.

Senator ALEXANDER. Is it generally accepted—I know this is a generalization, but does it seem to be generally accepted that the——

those are sufficiently strong rules to clean the air of sulfur and nitrogen over a period of time, or——

Mr. JOHNSON. Well, as with any EPA regulation, we believe that they are not only sufficient, but appropriate for achieving significant health benefits. As with any regulation, there are those who believe that we have gone too far, and others who believe we haven't gone far enough. But at EPA, we believe the Clean Air Interstate Rule provides significant public-health benefits. When you combine that rule, plus the rules I have signed dealing with diesel, these are the most health-protective rules in the history of the Environmental Protection Agency, with the possible exception of getting lead out of gasoline. So, it's a——

Senator ALEXANDER. Well, that——

Mr. JOHNSON [continuing]. Significant health benefit.

Senator ALEXANDER [continuing]. That's what I was getting around to. Let me take it one step further. Do you recommend that the rules that you've adopted, the Clean Air Interstate Rule and the standards you've set for sulfur and nitrogen, be adopted by law, codified in law?

Mr. JOHNSON. We do, and, in fact, would urge Congress to push forward the President's Clear Skies legislation, for a number of reasons. First is that it codifies them in law. Second is that it makes it nationwide. Because of the limitations of the Clean Air Act and our use of Title I for the Clean Air Interstate Rule, we were limited in our ability to make it nationwide.

Senator ALEXANDER. Right. Just so I understand you accurately—so, you're suggesting that the—that, in essence, the Clean Air Interstate Rule be codified.

Mr. JOHNSON. Yes.

Senator ALEXANDER. The standards that are there be standards in the law, so that there—so that people who care about the environment can see that that's permanent, and those who are in business and who are making plans can have certainty as they make these very large investments to rid the air of sulfur and nitrogen.

Let me pick up on something you just said. I would——

Mr. JOHNSON. Just to answer that, yes.

Senator ALEXANDER. Is yes to that. Well, I would—I would urge you to urge the administration to more strongly urge our Congress to codify the Clean Air Interstate Rule, and take credit for it. Because I agree with you, I think there are a number of actions this administration have taken which are strong environmental actions and strong conservation actions, and I think you should urge the Congress to adopt it, and take credit for it. Specifically, I've been a critic of the administration, and of other proposals, that haven't been strong enough on sulfur and nitrogen, because I live in a part of the country, the Great Smoky Mountains, which we have discussed—has a clean air problem. But I believe that the sulfur and the nitrogen provisions in the Clean Air Interstate Rule are sufficiently strong to address that problem, and that they ought to be codified.

Second, I think you're exactly right that the low-sulfur diesel-fuel provision that the EPA stuck to, that was started under President Clinton, but it was implemented under President Bush. I think you deserve credit for that. As I look at my area of the country, the

Great Smoky Mountains, we have—one of our truck stops there is the second-busiest big truck stop in the United States, and the low-sulfur diesel-fuel provision will make a big difference, in terms of the health of our citizens and the visibility of the Great Smoky Mountains.

When I look at the fact that you are proposing the first regulations on mercury——

Mr. JOHNSON. Yes.

Senator ALEXANDER [continuing]. I think you should take credit for that. Now, I would like to see them a little bit stronger, but the fact of the matter is, no one has proposed doing that before you did it. Last session, the Congress enacted legislation that extended drilling for oil and gas into the Gulf of Mexico, but it also took \$1 out of \$8 and put it into the State side of the Land and Water Conservation Fund, on a mandatory basis, as a conservation royalty. I know that's not under the EPA, but, to me, it's important as a conservation matter. I also like the fact, since I live next to the Great Smoky Mountains and not far from other areas, that the President has proposed a 10-year centennial initiative that basically gives all the—gives the national parks all the money they need——

Mr. JOHNSON. Yes.

Senator ALEXANDER [continuing]. For the next 10 years, with a bold initiative to attract private money for that.

So, I think this administration is greener than it gets credit for being, and I think, part of the reason, it doesn't take enough credit for itself. One thing I would like to see is stronger advocacy by the administration to codify the Clean Air Interstate Rule.

I'd like—in doing that, I'd like to ask you a question about how it applies. My sense of the regulations over the last 15 years on—well, let me put it this way, there's a lot of talk today about a cap-and-trade system, a market-based so-called cap-and-trade system——

Mr. JOHNSON. Yes.

Senator ALEXANDER [continuing]. For dealing with carbon.

Mr. JOHNSON. Yes.

CAP-AND-TRADE PROGRAM

Senator ALEXANDER. Well, we've had a good deal of experience with that, starting in the early 1990s. How has that worked? How successful has it been?

Mr. JOHNSON. Our cap-and-trade program has been very successful. It started with the Acid Rain Program——

Senator ALEXANDER. What year was that?

Mr. JOHNSON. That was—Bill——

Senator ALEXANDER. First President—that was under the first President Bush, I believe.

Mr. JOHNSON. Enacted in 1990——

Senator ALEXANDER. Yeah.

Mr. JOHNSON. Our focus was, what is the level of environmental control that's needed? That is, that cap. There are a variety of ways to do trading: input allocations or output allocations. Our experience with the Acid Rain Program was input allocation. The Acid Rain Program showed significant progress. Our Clean Air Inter-

state Rule was modeled after the Acid Rain Program. The Montreal Protocol was a success, as well. We have a great deal of experience, and believe that it's a very effective way of controlling SO_x and NO_x.

Senator ALEXANDER. What's—

Mr. JOHNSON. Since—

Senator ALEXANDER [continuing]. What has been the reduction of SO_x and NO_x, of sulfur and nitrogen—

Mr. JOHNSON. Well, our—

Senator ALEXANDER [continuing]. Pollutants?

Mr. JOHNSON [continuing]. Clean Air Interstate Rule will achieve approximately 70 percent reduction.

Senator ALEXANDER. Will. But what about the last 15 years?

Mr. JOHNSON. Over the last 15 years, about 9 million tons.

Senator ALEXANDER. Is there a percentage—

Mr. JOHNSON. That's—

Senator ALEXANDER [continuing]. That can be—from the level where we were in the early 1990s to the level where are today, what amount of reduction is—what percentage reduction is that?

Mr. JOHNSON. Cut about in half.

Senator ALEXANDER. Cut about—

Mr. JOHNSON. That's what—

Senator ALEXANDER [continuing]. In half?

Mr. JOHNSON. Yes.

Senator ALEXANDER. Then—

Mr. JOHNSON. Yes.

Senator ALEXANDER. Then, you'd go—so, if that's 50 percent, you'd go on to 70 percent—

Mr. JOHNSON. Seventy—

Senator ALEXANDER [continuing]. Reduction—

Mr. JOHNSON [continuing]. Percent.

Senator ALEXANDER [continuing]. With the Clean Air Interstate—

Mr. JOHNSON. That's correct.

Senator ALEXANDER [continuing]. Rule, if that were—

Mr. JOHNSON. That's correct.

Senator ALEXANDER [continuing]. Codified or if it stayed a rule. If I may—

Mr. JOHNSON. Oh—

Senator ALEXANDER. Go right ahead.

Mr. JOHNSON. I was just going to say, if I might add just two interesting facts. When you look at the history of the United States over the past 35 years or 36 years ago, we've had a population increase of about 40 percent. We've had vehicle miles more than tripled, our GDP almost tripled, and yet, when you look at the air pollutants, they have come down 51 percent. So, it indicates a number of things to me. One is that economic development and environmental success go hand-in-hand. The other is that we're not finished yet. We're continuing to move down that path of accelerating environmental progress while maintaining our economic competitiveness.

The last comment I just wanted to make on the issue of mercury is that, we are the first country in the world to regulate mercury from coal fired powerplants. It is a regulation now in place. I'm

very proud of the fact that this was done under my watch, and under the President's watch. Another great example of commitment that the President has to improving the environment—at the same time, maintaining our economic competitiveness.

CAP-AND-TRADE SYSTEM

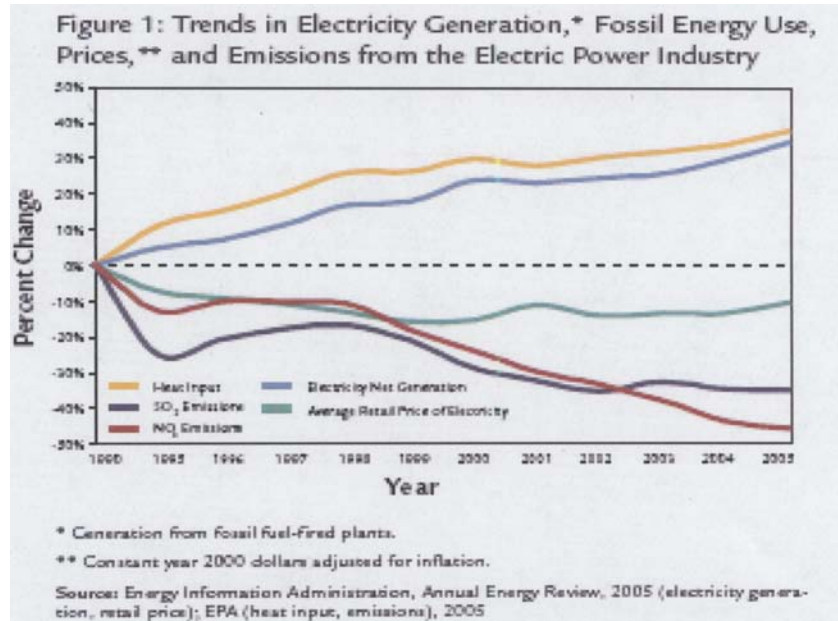
Senator ALEXANDER. Could you give me, in a follow-up note, an estimate of—or any comment that you might have now—about the cost of reducing the sulfur—SO_x and NO_x over the last 15 years through this cap-and-trade system and its effect on our competitiveness. I know, at the time that it was proposed, there were a great many people who were afraid that the imposition of the cap-and-trade system and the regulations on sulfur would produce an—a burdensome cost on utilities and an excessive addition to the ratepayers. My impression is, that's not been the case, but I don't know the—I don't have the facts. Can you give me——

Mr. JOHNSON. Be happy to respond to the record.

[The information follows:]

IMPACTS OF TITLE IV OF THE CLEAN AIR ACT AMENDMENTS ON U.S. COMPETITIVENESS

When the Clean Air Act was being amended in 1990, EPA projected that the full cost of implementation of the SO₂ portion of the Acid Rain Program would be about \$6.9 billion per year (in 2006 dollars). In 2005, a study in the *Journal of Environmental Management* estimated annual costs of the Acid Rain Program in 2010 will be \$3.5 billion (in 2006 dollars) with the SO₂ program accounting for about \$2.3 billion. This decreased overall cost has also lead to less impact on consumers and competitiveness in general. Generally retail electricity prices have remained at or below what they were in 1994 before the program began (see figure 1 below). While this does not definitively show that prices would not have been even lower in the absence of the Title IV program, it at a minimum suggests that increases have not been significant. This is consistent with work that EIA has done on this subject. In 1997, EIA looked at the cost of compliance for six utilities and concluded, "compliance has not caused electricity prices to increase at least for the six utilities examined in this report." While there have been increases in electricity prices since 2000, those prices are generally related to other factors such as increases in natural gas prices. Both EPA and EIA have looked into the issue of whether Title IV contributed to increases in natural gas prices and have concluded that it did not.



Mr. JOHNSON. From our analysis, the benefits significantly exceeded the costs associated not only with the Clean Air Interstate Rule of controlling SO_x and NO_x, but mercury. The same is true for our diesel rules, as well. We see a significant increase in public-health benefit for, you know, relatively minimal costs.

Senator ALEXANDER. Well, I—

Mr. JOHNSON. But I'd be happy to provide that for the record.

Senator ALEXANDER. I would appreciate—and I understand the public-health benefit, but I'm just trying to get a rough idea of—

Mr. JOHNSON. Sure.

Senator ALEXANDER [continuing]. What the—how much it added to the electric bill in order to take it down.

Mr. JOHNSON. Yes.

Senator ALEXANDER. Now, if I could pursue, a little bit, your comment, the—when you impose this cap-and-trade system, as I understand it, you basically, 15 years ago, and you continue to do that, give a set of allowances, or you set limits on the amount of pollutant that can come out of a smokestack, and you say to a company: "You can—here are 100 units. You can pollute this much." That's—one way to do that is to look into history and say: "Here's what you're doing today; and so, we're going to permit you to do this much this year, this much next year, this much this year, and your allowances go down." Another way to—that's called "input," as I understand it.

Mr. JOHNSON. That's correct.

Senator ALEXANDER. Another way to do that would have been an output system, where you look at some goal and say to someone emitting pollution, "All right, here's your goal, and we'll spread these allowances around over the entire industry." Can you tell me why you chose the input system, or the historical system, for the

cap-and-trade system that you imposed 15 years ago? What would be the effect on the utilities around the country if you were to make an abrupt change of that kind of an input allocation system to an output allocation system?

Mr. JOHNSON. Well, I'd like to invite Bill Wehrum, who's the Acting Assistant Administrator Office of Air and Radiation, to come to the table and can give you a lot more specifics.

Bill?

Senator ALEXANDER. Senator Nelson, I will wind up my comments in just a moment, and you'll become the chairman of the subcommittee.

We have a—so—if that's all right.

Senator NELSON. Quite a promotion, yes.

Senator ALEXANDER. So——

Mr. WEHRUM. Thank you, Senator Alexander.

ACID RAIN PROGRAM

Senator ALEXANDER. Yeah.

Mr. WEHRUM. Again, my name is Bill Wehrum. I'm the Acting Assistant Administrator for Air and Radiation.

Going back to the Acid Rain Program, we used an input allocation system, because that's what the law required. We had to make a choice, when the Clean Air Interstate Rule was designed, as to whether to continue with that approach or to shift to a different approach, and an output basis was the choice that was available to us.

Our judgment was that it was far better to be consistent with the Acid Rain Program, because we were trying to dovetail the Clean Air Interstate Rule into the existing obligations created by the Acid Rain Program, to have a seamless structure over time that would create predictability and consistency for the regulated community.

Shifting from input allocation to output allocation could have significant financial impacts both to the benefit and to the detriment of companies. The number of allowances we allocate would not change, regardless of the system we use. What would change is how many allowances each particular regulated entity gets. So, if we were to shift from the current input basis to an output basis, many of the entities that are getting significant allowance allocations right now under the Acid Rain Program and the Clean Air Interstate Rule would no longer get those allocations, because they would be sent to other companies. So, the financial consequences for individual companies could be significant.

Interestingly, in the aggregate——

Senator ALEXANDER. They would have to buy them from other companies, wouldn't they?

Mr. WEHRUM. That's exactly right. The primary advantage of using an input basis is, the allowances are allocated in a proportion to the amount of emissions, and they're proportioned such that the allowances don't cover the current level of emissions, and that's what provides incentive for emissions reduction to occur under the program. But the basic concept of the input approach is that we look at the level of emissions across the industry and then allocate proportional to the emissions that people have experienced in the recent past.

Senator ALEXANDER. What happens to the allowances when the standards come down a level as you move through 2009 and 2010?

Mr. WEHRUM. The number of allowances we allocate goes down in proportion to the step——

Senator ALEXANDER. So, the——

Mr. WEHRUM [continuing]. Reduction——

Senator ALEXANDER [continuing]. Allowances track the limits.

Mr. WEHRUM. That's exactly right. The Administrator made an excellent point, and I believe you're making an excellent point, which is, the amount of environmental control achieved under these cap-and-trade programs is dictated by where the cap is set and the total number of allowances that are distributed. If we have an economically efficient market system in place, which we believe we have, under the Acid Rain Program, and will have under CAIR, the allowance trading system gives regulated entities the ability to make financially efficient judgments as to where to install air-pollution controls, versus where they should buy allowances to cover the emissions that they make. So, that's one of the great values of Acid Rain, you get permanent significant reductions in emissions, but, at the same time, have an economically very efficient way of managing the emissions reductions.

Senator ALEXANDER. So, whether it's an input allowance system or an output allowance system, the clean air standard stays the same, the amount—the environmental standard stays the same. The issue is about——

Mr. WEHRUM. That's correct.

Senator ALEXANDER [continuing]. Who pays the bill——

Mr. WEHRUM. That's correct——

Senator ALEXANDER [continuing]. To reach that——

Mr. WEHRUM. [continuing]. Senator. That's exactly right.

Senator ALEXANDER [continuing]. To reach that standard.

Mr. WEHRUM. That's exactly right, Senator.

Senator ALEXANDER. Senator Nelson, do you have time for me to ask one more question, or are you——

Senator NELSON. Sure, that's okay.

CARBON CAPTURE AND STORAGE—ENERGY STRATEGY

Senator ALEXANDER. It'll be—if you'll—out of respect for his time, you'll give him—I want to explore, just for a moment, the carbon capture and storage that is so much talked about around here. All of us are interested in a coal-based—I say “all of us”—many of—Senators are interested in a coal-based solution to clean energy, for a variety of obvious reasons; and the limit on it is capturing the—and storing—the carbon. What's your opinion about the viability of capturing and storing large amount of CO₂ emissions from fuel-based—fuel-fired powerplants? What resources would it take, if you don't have it now, to help you assess the implications of carbon capture and sequestration so it can be a viable strategy for our country in developing clean energy? That will be my last question.

Mr. JOHNSON. Let me start off, and Bill can add to it.

Certainly we, at EPA, want to help the President meet the energy security and clean energy goals that he has outlined, and certainly would encourage Congress to pass the legislation to, one, change the CAFE standard, provide Department of Transportation

with the authority to make that change, and also the alternative fuel standard. As part of our overall energy strategy, we're working cooperatively with the Department of Energy on the issue of carbon sequestration, both in their focus on the technologies to be able to sequester the carbon and on our end, in particular, of what are the environmental safeguards that need to be put in place to make sure that it can not only be captured in a cost-efficient way, but also: What do we do with that carbon? We want to make sure that the environment isn't going to be harmed as we, if you will, inject the carbon, or whatever we end up doing with it. So, we're working very cooperatively with Department of Energy to address that.

Bill, I don't know if you have any additional comments.

Mr. WEHRUM. Sure. Thank you, Mr. Administrator.

EPA's role today primarily is focused on the sequestration piece of your question. My office, in conjunction with the Office of Water, were asked a question and made a determination as to whether the Underground Injection Control Program should be applied to those who want to get a permit for operating CO₂ and carbon sequestration wells. After careful consideration, we made a determination that, in fact, we do believe the Underground Injection Control Program should apply, and determined that, from now into the near future, these wells should be permitted under what's called Class 5, which is an experimental classification that allows case-by-case decisions to be made. We also understand, and believe, that there's a need for greater certainty in the long run. There are many, many people talking about doing carbon sequestration projects, on many scales and in various parts of the country and around the world, so we are already actively working on a new classification for carbon sequestration wells that would apply specifically to that type of well and have a set of requirements that's tailored to the particular needs of people who want to engage in that activity. So, we're spending a lot of time and effort on that issue right now. As the Administrator pointed out, we're working closely with the Department of Energy, and the DOE is focusing most of its attention and resources on the capture side of this question.

In any event, we would be more than happy to respond, to the record, to particular questions you have on this topic.

Senator ALEXANDER. Thank you very much.

Senator NELSON [presiding]. Thank you.

Well, first of all, I want to thank the Administrator for coming before the committee this morning. And I appreciate your time.

Mr. JOHNSON. Thank you.

OMAHA LEAD SITE

Senator NELSON. I'd like to ask you a few questions about the lead cleanup project that EPA has been administering at the Omaha lead site for a number of years. As you know, EPA has completed soil cleanup at about half of the 5,600 household sites agreed to as a part of its interim action plan. While I'm obviously glad to see continued progress in addressing the soil remediation, I have concerns about the project as a whole. Does the EPA agree that education activities for homeowners, landowners, and tenants would be a vital part of the overall effort to limit toxic exposure of lead in children? I'm concerned, for example, that we're being

foolish if we don't provide education on the dangers of the interior of the home as we physically address the exterior problems. For example, I know my constituents in Omaha have had a very difficult time securing funds for these activities. So, I'd like to know what they need to do to get adequate funding, since cleaning up the yard's one thing, being in a house, breathing toxic fumes with lead-based paint is another thing. Is it possible for EPA to coordinate with other agencies such as HUD, if that's what's necessary? What I need to have you tell me is: What can we do so that we're not cleaning up yards and leaving the interior of homes as toxic as they can possibly be? It just doesn't make a lot of sense to spend all the money to fix someone's yard and leave the homes as they are.

Mr. JOHNSON. Well, Senator, we are committed to cleaning up the Omaha lead site. Putting that site in perspective, Love Canal was about 70 acres, and the Omaha lead site is approximately 9,000 acres. So, when we talk about the complexity of the Superfund sites today, versus yesterday, the Omaha lead site, unfortunately, is a prime example of the complexity. We're committed to, and we will continue to, clean up the yards there. As you point out, we've completed about 2,800 yards.

We are committed, across the Nation, to eliminate childhood lead poisoning, and we are in the process now of working on a final regulation, called the Renovation and Remodeling Rule, which focuses on the households that you are referring to. Just within the past couple of days, we released a new study that we had commissioned to help us better understand what are the safe practices for remediating lead in buildings, homes, and our commitment is to continue to work to that end, to have a final regulation in place that helps to eliminate childhood lead poisoning. It is a priority for us. We expect to finalize the rule by 2008. In fact, this is such a priority area that there is actually an increase in the President's 2008 budget request of \$2.2 million to help us finalize and implement this rule.

One last point, specifically for the Omaha lead site, we, too, share the concern about making sure that people are informed. In fact, last year, we provided \$160,000 to the Douglas County Department of Health for outreach and education. We continue to believe that that's an important effort for outreach and education. We, too, believe that it's important for us to use those dollars wisely. Actually what we see from cleaning up these yards is that, indeed, blood lead levels are coming down. That's what our goal is. So, thank you.

Senator NELSON. So, would part of the funding for the preparation/completion of the rule involve making people aware of it? In other words, education about the existence of the rule so that, if you've got remodeling and remediation underway of a building, that the contractor would be aware of what you do, or the homeowner would be aware of what you would do, if you want to do it yourself, within your own home—repainting, whatever—

Mr. JOHNSON. That—

Senator NELSON [continuing]. It may be?

Mr. JOHNSON. That will certainly be part of the role of education and outreach, the appropriate methodologies for actually doing the lead abatement, as well as the test to make sure that, once you

have cleaned and remediated, that you have addressed it? So, we're looking at a variety of ways to get the word out, but it is an important area for us, and a priority as part of this 2008 budget request.

Senator NELSON. We appreciate what's being done. We looked at the budget, and your budget actually requests, for Superfund clean-up, almost 11 percent less than fiscal year 2006 funding levels. EPA has averaged soil cleanup of about 1,000 yards per year in 2005 and 2006 in Omaha. I guess my questions is, Can you commit to me that your fiscal year 2008 budget request provides enough funding to complete soil cleanup of at least 1,000 more households in the Omaha lead site in fiscal year 2008? Also, what date do you have scheduled for completion?

Mr. JOHNSON. Certainly have my commitment that it is a priority, and remains a priority, to clean up the Omaha lead site. The precise number, let me ask Susan Bodine, the——

Senator NELSON. She was nodding her head, so I assume she's got an answer.

Ms. BODINE. Susan Bodine, Assistant Administrator for Office of Solid Waste and Emergency Response. Yes, the cleanup of the yards has been proceeding at a tremendous rate. With the 2008 budget, that progress will continue at the same rate. As you know, ongoing work is being done under an interim ROD, and that the agency is working on a final ROD. That work is ongoing. So, because of that, I don't have a date for when the whole site will be cleaned up. But the yards are being cleaned up as quickly as they can, and that pace is going to continue.

Senator NELSON. Well, are we looking at 3, 4, or 5 years, or do you have a ballpark number of what timeframe you might be looking at?

Ms. BODINE. I'm going to have to get back to you, for the record, on that one.

Senator NELSON. If you would, I would appreciate that.

[The information follows:]

TIMEFRAME FOR CLEANUP

EPA anticipates that the soil cleanup at the most highly contaminated residential properties on the Omaha lead site will be completed during the 2008 construction season. EPA plans to issue a final Record of Decision (ROD) in 2008 that will determine the scope of the final remedy and the time required for remedy implementation. Moreover, this schedule provides for continued cleanup work so that there should be no stop in work during the transition from the Interim to the Final ROD. Currently, EPA is performing ongoing work, including a treatability study and a final risk assessment that will support the final remedy selection.

Mr. JOHNSON. A statistic that I do recall is that there may be as many as 16,000 yards that may need to be remediated. We're committed to work to turning this problem property into a community asset. I should also point out that, with regard to Superfund, the President's request is actually higher than last year's request and——

Senator NELSON. Well, yes, but it's 11 percent less than——

Mr. JOHNSON [continuing]. The response——

Senator NELSON [continuing]. 2006.

Mr. JOHNSON [continuing]. The response cleanup program. So——

Senator NELSON. Well, obviously, at 1,000 a year, 16—I haven't decided whether I'm going to try to be around here that long. So, I would hope that maybe we could—I'm not suggesting it's easy to get done, and it takes a while to get the yards—but I would hope that we might be able to move a little faster than 1,000, if it's going to take 16 years. That's going to challenge all of us, timewise. So, that is one of the reasons my concern is such about the funding for 2008.

Mr. JOHNSON. Well, I think you point out, again, the greater complexity of the sites today compared to yesterday. Then, there's a variety of ways to look at that. I mentioned the acreage. As you're well aware, 9,000 acres, roughly speaking, for the Omaha lead site is a lot different than 70 acres of Love Canal. We've done some analysis of remedies per site, and the remedies of the early days of Superfund were, you know, 1.7—

Ms. BODINE. Yes, 1.7 to 1.8 per site.

Mr. JOHNSON [continuing]. To 1.8. Today, they are over four remedies per site. So, we're still devoting the same amount of work and energy, but these sites are definitely more complex.

SUPERFUND CLEANUP—HASTINGS, NEBRASKA

Senator NELSON. I have one other question. I just met with the mayor and a city council member from the city of Hastings, Nebraska, which has had significant issues with Superfund cleanup. On the billing, I guess this is an appropriations question as much as it is a substantive question—on the billing that I just saw, is it true that the EPA grosses up whatever the expenses is—are by 50 percent—adds 50.1 percent to whatever the—has indirect cost for direct cost and would be billing the city of Hastings 44,000 plus 22,000, with the half—the grossing-up, for the Department of Justice? I guess I'm a little confused about how appropriations and budgeting must work, if you're collecting money for the Department of Justice and grossing it up 50 percent to the—as charges to the city of Hastings. I just saw the billing. I wish I'd have brought a copy of it.

Ms. BODINE. Yeah, we—I'd have to ask to look at the specific numbers and get back, for the record.

[The information follows:]

HASTINGS, NEBRASKA

As a Potentially Responsible Party (PRP), the community would be charged by EPA for its share of both direct and indirect costs. EPA's indirect cost rate is 50.69 percent, which is based on a methodology approved by the Government Accountability Office and upheld by the courts in several challenges.

Ms. BODINE. However, under the Superfund program, EPA is spending taxpayer dollars and the Department of Justice is spending taxpayer dollars. When we have responsible parties at a site, we then take enforcement actions to make the taxpayer whole, and collect those funds. That includes not just direct costs, but also indirect costs, which are real costs. I mean, the costs associated with running the agency are real costs, and to the extent—

Senator NELSON. Aren't those—excuse me—aren't those included within the appropriations that are sent back to the agency?

Ms. BODINE. Then—yes, the funds are paid for by appropriations, and then we seek cost recovery. Those cost-recovery funds go back into the trust fund——

Senator NELSON. Well, I understand——

Ms. BODINE [continuing]. And then——

Senator NELSON [continuing]. That the direct costs would, but I guess I'm a little surprised that there would be indirect costs going back into the Superfund that—for the Department of Justice.

Ms. BODINE. Well, the Department of Justice is also funded out of the Superfund.

Mr. JOHNSON. Again, the general concept is, if we can identify a responsible party, we want to make sure that the polluter is paying. We——

Senator NELSON. Well, this is the city of Hastings. I just——

Mr. JOHNSON. Again, the way the Superfund law is, whether it be a city or another Federal agency or an individual business, it is the responsibility of the polluter to pay.

Senator NELSON. There are some questions about whether the audit has to be done on site, with the grassed-in, fenced-in area, versus looking at the reports that are submitted—that are reviewed once they're looked at in Hastings—versus what could be submitted to Region 7 or to some other location. I think the costs—this is something I'd like to take up—not the whole committee, here, but I do have some serious questions about the significant bills that are being run up with direct and indirect costs that I think can—could otherwise be handled without as many personal visits and audits as are occurring, because much of the work is just simply reports that are reviewed on site in Hastings, that could be reviewed, either electronically submitted to the EPA—to try to cut down on some of the costs to the local community. They are taxpayers' dollars. These people aren't complaining. They asked me about it, and I'm complaining.

Mr. JOHNSON. Be happy to work with you, sir.

Senator NELSON. Okay. Thank you.

Mr. JOHNSON. Thanks.

Senator NELSON. I think that's—those are all the questions that I have.

SUBCOMMITTEE RECESS

Thank you very much. The subcommittee will stand in recess to reconvene at 2:30 p.m., Wednesday, March 28 in room SD-124. At that time we will hear testimony from the Honorable Mark E. Rey, Under Secretary for Natural Resources and Environment, U.S. Department of Agriculture.

[Whereupon, at 11:30 a.m., Tuesday, March 13, the subcommittee was recessed, to reconvene at 2:30 p.m., Wednesday, March 28.]